

CADWALLADER WALLACE.

MEMORIAL

OF

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DECEMBER 24, 1827.

Referred to the Committee on the Public Lands.

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1827.

THE COURT

CHARLES W. WALLACE

WALLACE

WALLACE

MEMORIAL.

To the Honorable the Speaker of the House of Representatives of the Congress of the United States.

CHILLICOTHE, December 12, 1827.

SIR : To redeem a pledge given to the Honorable George Graham, Commissioner of the General Land Office, in a letter which, on the third day of July last, I had occasion to address to him, and, at the same time, to discharge my duty as a citizen of the United States, I appear before the Representatives of the People, to charge him the said George Graham, with incapacity to execute the duties which appertain to his said office of Commissioner of the General Land Office; or, if capable, then to charge him, the said George Graham, as Commissioner of the General Land Office, with misdemeanors in his said office, redender him unworthy of the trust reposed in him.

And, in making this charge, I do it for the eight reasons why "I have questioned and yet question," his, the said George Graham's, "moral integrity, or his capacity as a public officer," as given in the letter addressed by me to the Honorable Littleton W. Tazewell, and the Honorable John Randolph, as they will appear between the black drawn lines on pages 10 and 13 of the copy of that letter,* which I herewith submit; adding thereto, as the ninth reason, that he, the said George Graham, in disregard of his character as a public officer, and in equal disregard of the public interest, has suspended the execution of the laws of the United States, by interdicting the sales of the public lands lying between the lines of Ludlow and Roberts, south of the Greenville treaty line, in the district of the Cincinnati Land Office.

In support of the facts, out of which grow the reasons for the question raised, and the charges now made, if they are gainsayed, I hold myself bound to adduce proof, when, and before whomsoever it may be permitted for me to appear.

Very respectfully, Sir,

Your obedient servant,

CADWALLADER WALLACE.

[* Commencing at the second paragraph of page 22, and ending with the letter from Mr. Wallace to Mr. Graham, on page 28.]

To the Honorable Littleton W. Tazewell, of the Senate, and the Honorable John Randolph, of the House of Representatives, of the Congress of the United States.

CHILLICOTHE, October 1, 1827.

GENTLEMEN: From the relationship in which I stand to the subject treated of by P. Doddridge, Esq. in his letter to you of the 17th February last, the duty of speaking has been imposed upon me; and to no one, more than yourselves, could I with more propriety address myself. It may, perhaps, be my misfortune that I am not also an "humble member" of the sovereign State from whence you come; but dwelling as I do towards where the sun goes down, I am nevertheless an "humble member" of that "sovereignty" which the sovereign State of Virginia has designated you to represent; and hence claim an equal right to address you: only, however, because it has so happened, that I have become involved in an "interest" immediately connected with the only "sovereignty" which you do in fact represent; and this is my sufficient apology.

If, as Mr. Doddridge states, it is true, that the Supreme Court of the United States have made the decision in his behalf that he avers has been made, and by which "both Government and people are concluded," one might almost be justified in supposing that he did not need the "protection" he has asked of you. For it is an incontrovertible truth that, by the *real* decisions of the Supreme Court, "both Government and people are concluded." Why then, in the emphatic language used, ask, "*And can her Senators withhold that protection?*" And why conclude with the threat, that, if it is withheld, the State of Virginia will be called upon, because she suffers herself, like England, to be sued in her own courts, to make good "a claim for a loss of title?" Why, gentlemen, does Mr. Doddridge so earnestly call upon you for "protection?" I cannot doubt but that you have yourselves wondered why.

Mr. Doddridge says "that Mr. Gallatin's letter directs the Surveyor General to regard, *for the present*, the line drawn from the head spring of the Little Miami river N. 20, 20, as the boundary of the surveys of the lands of the United States"—adding, "here the mistake begun;" and again adding, "*In matter of fact*, Mr. Gallatin was mistaken in supposing that course would describe a proper boundary." And verily this was the beginning of mistakes, and, consequently, Mr. Gallatin *was* mistaken. But against whose interest was the mistake made? Not against Mr. Doddridge's, but against that of the United States, who, in consequence of it, have given away about 200,000 acres of land, in the valley of the Big Miami river, not "between the rivers Scioto and Little Miami." And, as though this was not travelling far enough in the path of error, Mr. Doddridge calls upon you to "protect" him in his endeavors to abstract from the Treasury of the United States, the trifling sum of \$62,525 25, for claims *west* of Ludlow's line "between the Miami rivers."

I claim your attention to the fact as admitted by Mr. Doddridge, for it is a fact, and worthy of remark, that Ludlow's line, when first run, was not intended as the boundary of the Virginia Military reservation; but as the line, "for the present," of a portion of the public lands "between the Miami rivers." And that afterwards Congress generously, but to the prejudice of the United States, by the act of 1804, proposed to make it the western boundary of the Virginia Military reservation (thus permitting locations to be made up to it,) provided Virginia should, within two years thereafter, consent to it. The permission thus given to locate lands under military warrants, *in the valley of the Big Miami river*, was repugnant to the 6th condition of the deed of cession, (which tells you, for it is Virginia herself that speaks, that you *shall* "withhold" the "protection" asked for;) and consequently the assent of Virginia to such permission, by a recognition of Ludlow's line, became absolutely necessary, if, by the deed of cession, the right of soil and of jurisdiction, in the most extended sense of these rights, did not pass to the United States. But if it did so pass, then, as no law authorizing locations *west* of Ludlow's line has ever been enacted, the locations made by M'Arthur were in violation of law, and are void. And if it did not so pass, how stands it with the title to the 200,000 acres of land in the valley of the Big Miami, generously given away by Congress; and how with the land *west* of Ludlow's line, for which \$62,525 25 is asked? The 6th condition of the deed of cession will then show that, as these titles were acquired and are claimed in contravention of it, they are void. But no one "questions the powers of the Government." And where power cannot be questioned, what should not be thought of the folly of him who makes the vain attempt? Such an one may well call upon you for "protection:" for verily he stands in need of it.

I herewith send you copies of my letters, of the 1st of June and 26th July last, to Thomas Scott and John Alexander, Esquires, to which two letters I beg leave to invite your particular attention; because they were written to show that the land located by General M'Arthur *west* of Ludlow's line, *in the valley of the Big Miami river*, "between the Miami rivers," *does not* lie "between the Scioto and Little Miami rivers;" the district in which alone Virginia Military land warrants could be legally located. And to show, moreover, that the Supreme Court of the United States (the declarations of Mr. Doddridge, of Commissioner Graham, and of all others, to the contrary notwithstanding,) *have not* "established" Roberts' line, nor any other line, to be the "true boundary" of the lands "between the Scioto and Little Miami rivers." And that, although the Supreme Court *did* pronounce a judgment in favor of Doddridge, in an *agreed* case, yet that that same judgment is a virtual decision *against the merits* of his claim, and the claims of those included in the call upon you for "protection."

The Big Miami is not a tributary of the Scioto or Little Miami rivers, nor does it flow into the Ohio river between the mouths of these rivers; and, consequently, not being common to either or both

of them, or common to their countries, basins or valleys ; and, as these countries, basins, or valleys, both separately and collectively, form a perfect "whole," the constitution of this "whole" is not made up of a component part of any other "whole:" no, not of the Big Miami River, its country, basin or valley, which is also a perfect "whole;" and that the Big Miami river, and its country, basin or valley, consequently lies *outside* of the "whole country" between the rivers Scioto and Little Miami ; and, being *outside* of, cannot lie *within*, or "between those rivers. And one strong item of proof that the land claimed by Mr. Doddridge and others *west* of Ludlow's line, *in the valley of the Big Miami river*, "between the Miami rivers," does not lie "between the Sciota and Little Miami rivers," is afforded by General M'Arthur, the locator and surveyor (by *moonlight* perhaps, for, at that day, it was supposed that, for a man to locate and survey Military warrants upon lands surveyed and sold out by the United States, he stood in need of some such "protection,") of these claims. It is to be found in that "official" testimony taken by General M'Arthur to counteract *my* "unofficial surveys and irresponsible depositions;" and in that part of it where the General asks his "official" witness, John Brannon, the following questions : "Do you reside on the fractional section, No. 5, township No. 6, range 9, *between the Miami rivers*?" Which interrogatory the witness answered in the affirmative. Whereupon the General again asked him, "Do you know that I claim the same land by a military title, and had a lawsuit with Joseph Hults, some years ago, for said land, in the Circuit Court of the United States, and recovered the same?" And to which interrogatory the witness answered, "Yes, as far as your survey covered it."

This "official" testimony was taken upon or near to the land referred to by the questions put—upon one of those very claims, gentlemen, that you have been so urgently called upon to "protect." And when standing upon the land itself, *in the valley of the Big Miami river*, "between the Miami rivers," it was so evident that the General, his witness, and the land, were all, in truth and in fact, "between the Miami rivers," and *not* "between the Scioto and Little Miami rivers," that he could not, without having taken time to have reflected upon what he conceded by the questions put, have put them differently. For, if a man standing upon the top of a mountain, should, in reference thereto, talk of it as though he was in a valley, if he should not himself wonder at the incongruity, others would : for a mountain and its top has a powerful effect upon the senses, and will not suffer us, when there, to think or to speak as though we were in the depth of a valley. And so, also, when a man happens to get "between the Miami rivers," he cannot then, without more than ordinary presence of mind, although his sole object in going there may be to collect "official testimony" to dispel the mists of my "unofficial surveys and irresponsible depositions," help feeling and speaking as though he was really "between" them, and nowhere else : for the truth is irresistible ; and, like the rays of light, that body which it doth not penetrate, must indeed be opaque.

Mr. Doddridge in one place observes, "While it is said, on one hand, that Congress had power to curtail and grant away the district, and that, in fact, they did withdraw part of it, *the court admitting the power*, they deny that any law exists which can bear that construction." And again, in the postscript to his letter, he observes: "Had Congress passed any law to authorize these sales, which the Supreme Court say they had not, I would not question the title of the purchaser." So that he agrees "not to question," what the Supreme Court "admits." And I claim your attention to this part of his letter, and to that part of the opinion of the court to which it relates, for the purpose of saying, that the laws of the United States, granting *pre-emptions* to the purchasers of land from John Cleves Symmes, were overlooked by the Supreme Court; that court not knowing that a great part of the land (even some of that the subject of the application for "protection") *east* of Roberts's line, and up to Ludlow's, was sold under these laws. So far, then, as sales were made under these laws, Mr. Doddridge's "official" testimony (for being *disinterested*, his mere word is "official,") itself substantially tells you, to "withhold" the "protection." And the Supreme Court tells you that *he is not entitled to it, because the powers of the Government are not to be questioned.*

In a printed letter, signed H. Bacon, addressed to General M'Arthur, and circulated at Washington last Winter, the writer, upon the subject of Ludlow's line observes, "the object to be obtained by it, was, not to make out the certain boundary of the reservation, but rather to fix a base, upon which to commence surveys of the United States," and this, as I have before said in reference to Mr. Doddridge's letter, was the fact. This line began at the supposed head of the Little Miami river, and run N. 20 degrees W. "towards" the *Big Miami* river, crossing in its course two branches of the Little Miami that flow in upon the *western* side of that fork adopted by Ludlow as the river, and crossing several branches or forks (the largest of them) of the Big Miami that flow in upon the *eastern* side thereof, and terminating, short of the river, at the Indian boundary line, without any where passing into the valley of the Scioto, or including one inch of land in that valley, or one inch upon the *eastern* side of the Little Miami. Roberts's line, by beginning lower down the Little Miami than Ludlow's, and extending westerly of it, is consequently a line lower down the valleys of the Little and Big Miami rivers; and a *direct* line from the head source of the one to the head source of the other of *these rivers*, would pass higher up and more to the northeast than either of these lines. And if a *direct* line from the head source of the Little Miami to the head source of the Scioto, is to determine the bounds of the county "between" those rivers, a similar line must also determine the bounds of that between the Little and Big Miami rivers. [The letters to Scott and Alexander oppose these "direct" lines, when the course of the natural objects is not "direct."] But, if the arguments of *disinterested* gentlemen are sound, it would seem that there is *no county* between the Little and Big Miami rivers. And,

gentlemen, to trespass a little upon your patience, let me ask *you* if there is not a *county* "between" those rivers? You, like myself, being "*interested*" (don't be alarmed to be accused of being *interested* in the discharge of your duty as men and as public servants) must say that there is. And, in thus saying, you are sustained by that law of Congress declaring the fact, by a sale of a large tract of land "between" *these rivers*, to John Cleves Symmes.

In my letters to Scott and Alexander, I have endeavored to demonstrate that, as there is a "whole county" between the Scioto and Little Miami rivers, there is also a "whole county" between the Little Miami and Big Miami rivers; and, in those letters, I have endeavored, and, I hope, satisfactorily, to draw the unerring line of separation between these, and between all other *whole countries*. And what, gentlemen, are the bounds of the country "between" *those rivers*? The Supreme Court tells you, it "is the whole country *from their sources to their mouths*;" and, in telling you this, they have told you the measure of "protection" to mete to Mr. Doddridge and others: For *their* "claims" lie between *these* rivers—within their "sources" and their "mouths," and *not* "between the Scioto and Little Miami rivers;" nor within *their* "sources" and their "mouths." And what was the object and intention of the Court in thus describing the bounds of the territory "between" two rivers, if it was not to declare this: that a grant of the land between two rivers, is *all the land* from their sources to their mouths, and not a *part* of it? Or, in other words, *not a part*, but *all the land*. These claims, needing your "protection," form a *part* of the land "between" the Little and Big Miami—a *part*, without which, *all the land*, or, in the language of the Court, "the whole country, from their sources to their mouths," cannot be made up; and, it is a *part*, above and beyond "the whole," or, all the land between the Scioto and Little Miami rivers. Yes, gentlemen, that Court, which Mr. Bacon truly remarks, "unites every quality calculated to foster our national pride," in emphatic language, substantially tells you, that the territory (a part of which, Mr. Doddridge has seized, and called upon you to *protect* him in the seizure,) "between" the Little and Big Miami rivers, is the "whole country from their sources to their mouths." And, to show that Mr. Bacon pays a just compliment to that Court, the Court, in the same emphatic language, substantially tells you, the territory "between the Scioto and Little Miami rivers," is the whole country from *their* sources to *their* mouths. And it is in the applicability (like the *truth* itself) of the declarations of the Court to every case, as well that "between the Scioto and Little Miami rivers," as that "between" the Little and Big Miami rivers, that the truth of the remark consists. And, as these "claims," calling for your "protection," do *not* happen to lie "between" the Scioto and Little Miami rivers, nor within their "sources" and their "mouths," the solemn decision of this Court upon the question of *boundary*, as settled in the case upon which is made the attempt to lay the corner stone of "protection," has rendered these claims "hopeless indeed;" and, being "hopeless," unworthy of your protection."

With the land warrant, Mr. Bacon labors to transfer also to his client the "blood and sweat of the war-worn veteran of the *ancient dominion*;" and a little of this would help on with the "protection" amazingly. But these "claims" happen to be the nadir, and this "blood and sweat" the zenith of merit. It is not Mr. Bacon's, like Mr. Doddridge's boast, that he is a Virginian. His credibility proceeds from the fact, that he is "almost a native of the same forest where the premises are situated;" but, like Mr. Doddridge, *he* assails the "speculating morality of the *memorial*," and charges "land speculators" with having "opprobriously applied" their descriptive appellation to General M'Arthur, making use of every means in their power to prejudice the public mind against his claims, and, in some measure, to involve in it his character as an individual. And, if this charge of Mr. Bacon's was not, at least, semi-"*official*," I should like to know how he became possessed of so much information. The charge, as to myself, is just as untrue as that a man's "character" is not involved in his "claims." And, when Mr. Bacon can draw a line between a man's acts (the thing that gives him "character" and a name, or from whence "character" proceeds,) and his "character," then it will be in good time to defend the "speculating morality of the *memorial*:" for, until then, it will need no defence. As to this involving of "claims" and "character," I will only observe, that Mr. John Judy, who has testified that General M'Arthur's observations to him prevented his showing to the United States and Virginia commissioners what he considered and believed to be the true head of the Little Miami, and Mr. James M. Reid, who testified that General M'Arthur gave a man one hundred acres of land, to show the head of the Scioto to these commissioners, are living witnesses. They are men in "moderate circumstances;" and, although not so *wealthy* as to be placed "above the love of office for emolument," yet, I think, that the Hon. Joseph Vance, to whom they are both known, will not dare to impeach their credibility.

To the *real merits* of the claims under discussion, I have nothing more to add; and I could wish that justice to myself, individually, and duty to our common country, did not require at my hands, that, as the consequence that has been given to them, is believed to have proceeded from extraneous matter, and a peculiar combination of circumstances, that I should also claim your attention to a part of that matter, and a part of those circumstances; and, thereto, I ask the indulgence to turn your attention.

Mr. Doddridge states, that the land recovered by him of Thompson and Wright, was conveyed to him "in compensation for professional services, and is his [my] absolute property." And, although he seems to defend himself as though he had been used as M'Arthur's tool, and as though he had good reason to parry the appearance of having practised a fraud upon the Supreme Court of the United States, whereby to make that Court subservient to the honorable purpose of delivering the pregnant Treasury of the nation of \$62,525 25 cts. for claims "between the Miami rivers;" yet he omits to state,

when, or how, these "services were rendered." He has not been known as General M'Arthur's lawyer; and, up to the time of receiving the title, it is believed that he never appeared in Court for General M'Arthur, and but once against him; and then, in that suit which he recovered for ——— Browder, before the Circuit Court of the United States for the Ohio District, and *lost* before the Supreme Court. And it cannot be possible that, in *this suit*, he rendered General M'Arthur a "*professional service*:" for his services were due to Browder. [If Browder is alive, he can say why he labored afterwards, through B. Hardin, Esq., to get the Supreme Court to open the judgment, and give him a re-hearing.] Nor does he state to you, why it was that *General M'Arthur* employed and paid the Hon. Henry Clay to prosecute this suit against Thompson and Wright. I am charged with being "interested," or I would state the impression that has been made on my mind, by what I have repeatedly heard General M'Arthur say upon this subject, and by what he has repeatedly said to others, and which, by them, has been repeated to me. But, upon this subject also, as well as upon the subject of these claims "between the Miami rivers," General M'Arthur furnishes a ray of light in the second question quoted by me, as having been put to his "official" witness, Brannon. It is about *his* suit against Joseph Hults, before the United States' Circuit Court. This suit, gentlemen, after the fashion of his suit in the name of Philip Doddridge, was, by him, brought and prosecuted in the name of his brother-in-law, James M'Donald, of Alabama, (the same James M'Donald, in whose name, his honor Judge Trimble, at July Term, 1826, refused to let General M'Arthur prosecute before him a suit for land really "between the Scioto and Little Miami rivers," and which has been removed to the Supreme Court on a writ of error,) against Hults, and recovered upon a decree *pro confesso*. And, as the deed to M'Donald was not put upon record, (if, indeed, one was ever made him,) the General, when he got upon the land "between the Miami rivers," (for it lies there,) in search of "official testimony," he, himself, then "officially" testified that it was *himself*, and not M'Donald, that sued and recovered the land of Hults. But, as the General has not testified "officially" (although he has "officially testified" that one of his claims lies "between the Miami rivers") about his suit, in the name of Doddridge, against Thompson and Wright; and, as it is Mr. Doddridge's boast that he is a *Virginian*, and, aware, that *names* are *sometimes* significant of things, I will let you deduce what opinion you may choose, in reference to Mr. Doddridge's "*professional services*," and his "absolute property" in the seven hundred acres of land, the subject of his suit; adding only, however, my belief, that, inasmuch as *he* has a deed for the land, he intends *absolutely* to hold on to it in good earnest.

Mr. Doddridge concludes his letter by threatening that, if the bill intended for the "protection" of himself and others, should be rejected, that he will feel himself at liberty to oust the Government

purchasers. But, gentlemen, you need not be alarmed at this threat : for the Hon. John C. Wright, Thompson's (this Thompson being a reputed kinsman of the celebrated John Doe) codefendant in the action in which Doddridge was plaintiff, has interposed his authority to prevent the execution of it. Are you ready to ask, What *authority*? My simple meaning, then, is this : that Doddridge (there exists "official" proof of the fact) having agreed with Wright—for he is good at an agreement—that a judgment might be rendered against him by *any* Court in *this State*,* for the sum of \$536 88 cts. (a few dollars less than one-third of the value fixed upon Doddridge's seven hundred acres, under the act of Congress, by which he endeavors to persuade you the Government has concluded itself, and is now bound, right or wrong, to grant the "protection ;") judgment was, consequently, rendered against him ; and Mr. Wright's *authority* is the execution which he has caused to be levied upon the land. But, I may have mistaken the motive of this honorable gentleman in the use of his authority. It may, in truth, simply be intended to put it out of the power of Doddridge to refuse a just distribution of the "protection," which he so unremittingly uses his influence (not *his* "interest," for he is *disinterested*,) in Congress, to cause that body to grant to Doddridge and others.

Mr. Doddridge states, that M'Arthur's last suits were not brought "in order to a trial," but to counteract, by "official surveys, and official testimony," my "traversing the country, making unofficial surveys, and taking irresponsible depositions, to be laid before Congress." But, as he has not called upon you for "protection" against unblushing falsehood, time would be lost in stopping to tell you why this assertion is unfounded in truth.

Mr. Doddridge states, that it was never questioned (General M'Arthur's "official" testimony questions it) that Roberts's line was a true one, "except by these *three interested* individuals, who addressed you in three memorials *against* M'Arthur's claim, in no two of which is there any agreement in point of fact : " and, as *I* am one of the "three" referred to, for myself I speak. And, in reference to this matter of "interest," and the "memorial," I have to observe, that the text upon which Mr. Doddridge founds his authority for asserting my "interest," is to be found in General M'Arthur's letter, of the 29th December, 1824, to the Committee on Public Lands. And, as on the 9th January, 1825, I addressed a letter to the same committee, denying the contingent liability imputed to me by General M'Arthur, he should, if he despised the character of a false accuser, have made out his proofs, or not have repeated, or suffered to be repeated, the false accusation. But *effect*—yes, *effect*—was intended ; and *effect* has been produced. And this matter of "protection" has, in consequence of it, had a most unaccountable "protection" given to it.

* In cases of "plain, common sense, and ordinary justice," it is by no means uncommon for men to be sued *abroad* ! Dark and mysterious causes are, on the contrary, usually brought near home !

The "memorial" in question, was signed by *ten* persons; of whom, myself and two others (Walter Dun, and James Gallo-way, Jun. Esqr's.) were singled out, by General M'Arthur, as "interested"—by insinuating that *we* were contingently liable to *him* for twelve or fourteen thousand dollars; adding thereto, the insinuation, that we were influenced, in addressing Congress, by feelings of "envy and jealousy" towards him. Thus singled out, and accused, we "*three*" did again appear before Congress; not to complain of the inattention to our memorial; not to prove negatives; such as, that we were *not* interested, and *not* actuated by feelings of "envy and jealousy: No, and, for no other purpose, than because our characters was a subject of "interest," of dear interest, to us—to offer our "unofficial surveys, and irresponsible depositions," (made and taken three months *after* M'Arthur's *two* suits were brought to "counteract" them,) in proof of certain things asserted by us, and denied by General M'Arthur; and, as a consequence, that, to grant \$62,525 25 cts. of "protection," upon no better evidence than that afforded by the *disinterested* case of Doddridge vs. John Doe's kinsman, Thompson, and the *disinterested* John C. Wright, would be an imposition upon the Government. And the waters of the Little Miami and Scioto rivers, yet exist to shield the "*three*" from falsehood, and to keep *their* "surveys" and "testimony" from the blush.

In the last communication or memorial, the "*three*" distinctly stated to Congress that they had become satisfied that neither themselves and the other memorialists, nor the solicitors for "protection," were entitled to ask any thing from the United States for encroachments upon the lands "between the Scioto and Little Miami rivers;" having become thus satisfied from a personal and full examination of the country. And if, when I signed the first memorial, I had been in possession of the information I now possess, or even of that which I possessed when I signed the last, I should most certainly not have signed the first, except it had indeed been simply a memorial "*against*" the claims of McArthur.

But is it true, as Mr. Doddridge roundly asserts, that the memorial was simply a memorial "*against*" those claims? The fate of this memorial was not less singular than that, *without* a "memorial," a bill should have originated in Congress, granting to Gen. McArthur and others \$62,525 25, by way of "protecting" the purchasers of the public lands west of Ludlow's line. And its fate is, perhaps, emblematical of the just fate which awaits that bill, which, phoenix-like, came into existence. I beg you, gentlemen, to examine this memorial, that, with me, you may wonder why, although it was printed, it was not referred to a committee to be reported upon; or, if referred, *why that committee did not report in favor of or against the memorialists*; and that you too may wonder why the memorial was *smothered* to death, and then tacked, as useless lumber, to the report upon the "protection" bill. Was it just to grant the \$62,525 25? If yea, then justice demanded that the prayer of the memorialists should

not only have been heard, but granted also. And if yet justice permits the one, that same justice demands the other. And to grant the one and withhold the other, the act would be unjust, whether done at Constantinople or performed at Washington. And if, because from a peculiar combination of circumstances, not necessary nor proper for me to refer to, the voice of the memorialists has not yet been suffered to be heard, can it be possible, gentlemen, that this "protection" bill, either in whole or in part, or that any thing that may be likened unto it, shall be suffered to pass, without letting them be heard, and without meting to them equal justice? Time will answer; and time will pronounce judgment on the act.

Without any report upon this "memorial," let us see what were the explanations of the Chairman of the Committee on Public Lands of the House of Representatives, as made by him on the 18th February, 1825, (I will not refer to after* or previous reports explanatory) upon the nature and merits of the "protection" bill. After speaking of "the gore between Ludlow's line and Roberts's," he went on and said: "The gore contained fourteen thousand acres, [Where were *then* those gentlemen who are so prompt in writing to Commissioner Graham for 'official' authority upon which to enable Mr. Doddridge to contradict 'Senator Eaton's' errors—'only because those errors exist?'] and the valuation of the land, exclusive of improvements, amounts to sixty thousand dollars." Now, according to this explanation, McArthur had located the *whole* "gore," and the "protection" to him was a settling up and finishing the whole business; and, consequently, that those who were petitioning Congress "against McArthur's claims," were really a set of *envious* and *jealous* fellows, and, as such, undeserving of attention; nor their memo-

* One exception, however, I must make. Last Winter, the Hon. Mr. Vinton, in answer to a call from the Hon. Mr. Webster, stated, that "the United States took up the controversy where the Commissioners, in 1812, had left it, and directed the District Attorney to *insist upon the line run by them to be the true line, and to agree that it was so.* Doddridge abandoned the ground assumed by the Virginia Commissioners, and agreed that the line so run was the *true line.* This line, as before remarked, *includes* these entries within the military reservation. The only question, therefore, to be decided, was, whether the construction of the Commissioner of the General Land Office, or that of the military claimants upon the proviso to the act of 1807, was correct." Thus, in the language of the Kentuckians, "going the whole hog," against not only the statements of Commissioner Graham, but also of General McArthur and Mr. Doddridge, and, in part, the agreement itself; and, at one blow, destroying all the validity of the case decided in favor of Doddridge, by showing that the rights of the United States had been absolutely *foolishly* AGREED away. But, in a "case of *plain common sense and ordinary justice,*" discordant statements are by no means uncommon.

The speech of this gentleman, to which I now refer, contains more solid objections, under a very shallow covering of arguments in behalf of it, *against* the grant of "protection," than were ever, before its delivery, advanced by the *opponents* to the bill. And to him—to his speech—am I debtor, in a great measure, for the principal light which I now possess upon the subject. He was evidently opposed to a line that should include "a large tract of country on *both sides* of the Miami, as country lying between it and the Scioto;" and as Roberts's was just such a line, I in an instant saw and felt, and have availed myself of, his powerful and irresistible objection to it; and, I trust that, in my application of his objections, as it will be found in my letters to Scott and Alexander, he will not find himself disgraced: believing that behind the invulnerable bulwark of the *truth*, no man ever was, or can be, disgraced.

rial meriting more than to be printed, for men of "wealth," whose "characters" have never been "questioned," to use for an unclean, though cleansing purpose. But, for the Hon. Mr. Rankin's errors ("only because those errors exist") a sufficient apology can be found in the peculiar circumstances under which the "protection" bill was brought forward and protected by its *disinterested* protectors. *He* I do not believe intended to deceive; nor do I reproach his memory with deception; because, from what I have heard of him, he was above it. But why, gentlemen, let me ask, did not some kind and *disinterested* friend call upon Commissioner Graham to get "official" testimony wherewith to correct this fortunate *error* tending to promote the benefit of the seekers after "protection—only because those errors exist?" And why, on the 6th May, 1826, when the editors of the National Intelligencer, in giving the proceedings in Congress upon the "protection" bill, described the "*northern*" boundary of the Virginia military reservation to be "a line running directly from the source of the Miami to the source of the Scioto," did not some *disinterested* friend call upon Commissioner Graham, to get "official testimony" to substantiate *his* "official testimony," which declares that such a line as this has been "established" to be the "true line?"

The editors of the Intelligencer, within a bracket, say, "The lands in question are some of the richest in Ohio, and are thickly settled by persons in moderate circumstances. There is a village on the tract, and valuable merchant mills on another part of it." [Captain Samuel McCord, a near neighbor of the Hon. Joseph Vance, when in this place, last Spring, may be supposed to have given great offence to the friends of "protection," for saying that, if the Government would put the \$62,525 25 into his hands, he could buy from these "persons in moderate circumstances," the land and improvements, together with the village and mills, and save to himself thirty thousand dollars out of the agency.] And, after such a description, all glowing with "wealth," well might the *disinterested* friends of "protection" represent these claims "between the Miami rivers" as worth two hundred thousand dollars; and well might they complain, that, as the "case was one of plain common sense and ordinary justice," (was such a bill ever brought before the Congress of the United States? Were the United States ever, before the introduction of this bill into Congress, made to offer to redeem any portion of the public domain from any of her citizens? Who questioned her right of soil and of jurisdiction? And when were her rights ever before so questioned?) that those who opposed it, were "defeating the ends of justice, and, moreover, jeopardising the best interests of the Treasury; as, by delaying the "protection," these seekers after it would, in all probability, keep the land, unless Congress paid the *full* value of it. And it is amongst one of the novel facts in the history of this "protection" matter, that the *interest* of the Treasury was to be *promoted* by the passage of the bill. But a little more of these claims to land—"to some of the richest in Ohio"—in another place.

Disdaining, as I do, the ignoble feelings of "envy and jealousy,"

and believing that, if ever a man was guiltless in this particular, that I am in reference to General McArthur, and to all that he hath, either in possession or expectancy, I will name two facts, that may mitigate the unjust insinuation. The first is, that, in 1810, when Gen. McArthur made his locations "between the Miami rivers," I was but twenty years of age, and at the time a clerk in the office of Auditor of Public Accounts in this State, without then ever having owned a land warrant, or located one; and, consequently, that I was not then either a competitor or fellow laborer of his. And the second is, that, although in the year 1815, when General McArthur commanded the eighth military district of the United States, I was then both a land agent and a dealer in land, yet that, from a belief that the laws of the United States had intended to neutralize all such agencies as that ["ATTENTION ! DISCHARGED SOLDIERS, who are entitled to BOUNTY LANDS ! Should any of you think proper to employ me to draw your land warrant, locate your land, and obtain your patent, the whole business shall be done to the best advantage for fifteen dollars, paid in advance, or twenty dollars on the delivery of the patent. To enable me to effect this business, a power of attorney must be signed and acknowledged before an acting Justice of the Peace or Mayor. The proper certificate of your claim to the land must be deposited in my office, where a receipt will be given for the same, and for such money as may be paid in advance. (Signed) DUNCAN McARTHUR.

June 1st, 1815."]

published by the General, immediately *under* his general order disbanding the "sons of the West, who bled so freely during the late war," (and one of whom it is the boast of the Hon. Joseph Vance that *HE* was, as given to the world in that speech of his testifying ^a double friendship for his "guardian," the General,) I neither sought, nor desired to seek, to become a competitor or fellow laborer of *his*, in this new kind of land agency business, thereby to divide with him its profits; but that, as others had given him an open and undisputed field *west* of Ludlow's line, so neither did I, in anywise, interfere with him in settling up his accounts of *guardianship* with his wards, "the sons of the West, who so freely bled during the late war." And for me now to indulge towards him feelings either of "envy or jealousy," at the "wealth" thus amassed from the "sons of the West," or for that he has been expecting to amass, by a sale to the United States of his claims "between the Miami rivers," *west* of Ludlow's line, would be to suppose that I might be that improbable creature who could give indulgence to such feelings because the General possesses a carcass capable of feeding three times more maggots than mine. No, gentlemen, I am not that execrable creature. I "envy" not General McArthur's "wealth," although the Hon. David Trimble tells you, in his celebrated "Heaven's hangman" speech, (for I know not better how to describe it, as he was the discover, and by this speech made known the discovery that in heaven there is a *hangman*,) that this gentleman's "wealth" places him "above the love of office for emolument," and that his "purity of character was never ques-

tioned" in Congress, "or elsewhere." And dazzling as is the "wealth" and the "character" of General McArthur to the Hon. David Trimble, and to those who in it could find, like Gen. McArthur himself, an objection to my fitness to act as the agent of the Treasury Department, in defending the suits brought for the land claimed by him "between the Miami rivers," because, forsooth, like the United States, I had (if General McArthur charged the truth) an "interest" *adverse* to his; you may cease to wonder why this matter of "protection" has been so *protected*; and why the "memorial" of myself and others was strangled to death; and why the names of "Dun, Galloway, and Wallace, the three *interested* individuals," have been so freely and illiberally spoken of, because they have taxed what "wealth" they have [Dun and Galloway, like McArthur, are men of "wealth,"] to demonstrate that they too have some pretensions to "character," and, at the same time, to demonstrate the meditated imposition upon the Government. But, if the charge against me was true, who, gentlemen, but General McArthur, and those who have been blinded by the blaze of his *wealth* and *character*, could ever have seen, in the "interest" charged to me, any thing like an objection to my having been so appointed? And who, gentlemen, other than Gen. McArthur, and his blind friends, is there that, so far from seeing in my appointment any thing that was wrong, would not, on the contrary, have seen, in the "interest" charged to me, every thing that the *interest* of the United States required to recommend and point me out as the very man that should have been so appointed? But Gen. McArthur's "wealth places him above the love of office for emolument," and his "character has never been questioned" in Congress, "or elsewhere," and, therefore, *it was wrong* to have an agent for the Government, who, regardless of his "wealth" and "character," would question the *merits* of these claims to land "between the Miami rivers;" for which it almost seems that it was proposed to have granted him "wealth," to place him "above the love of office for emolument."

Are you ready, gentlemen, to ask, What can the Hon. David Trimble's observations on the "wealth" and "character" of Gen. McArthur, have to do with the *merits* of his claims "between the Miami rivers," or how be made to relate thereto? Or what the observations of the Hon. Joseph Vance on his *guardianship* of "the sons of the west, who so freely bled during the late war;" or this gentleman's uniformly flattering description of the General, (for all this is due from a *grateful ward* to his "guardian;" and if there is any character that is enviable and respectable, it is that of "guardian," in the just sense of the term; and "how vain, without the merit, is the name!") when his claims "between the Miami rivers" are objected to at Washington? Or what the employment, by Gen. McArthur, of the Hon. Henry Clay, to prosecute his suit, in the name of Philip Doddridge vs. Thompson and Wright; or this gentleman's most flattering allusion to the "McArthurs of the West," in his vindictory address to his constituents? Or what the observations of the editors of the *National Intelligencer* upon the boundaries of the Virginia Military Reser-

vation, and upon the great value of these claims "between the Miami rivers?" Or even what the fact that the Hon William Creighton, jr. is supposed to have been, and yet to be, friendly to granting the protection; and, that this gentleman is, and has, for several years, been the counsel and agent of Mr. Matthew Hobson, of Georgia, to settle with Gen. M'Arthur for a moiety of the 10,000 acres, "between the Miami rivers," yet *unpatented*—and which said 10,000 acres had been *previously* located (and a location is, or should be, a *satisfaction* of a land warrant,) by Col. Elias Langham, on land "between the Scioto and Little Miami rivers," and was, by Gen. M'Arthur, withdrawn and relocated "between the Miami rivers," under authority of a contract with Hobson? [The merits of the Hobson claim, adds to the merits of the "protection" of "plain common sense and ordinary justice." Have the courts pronounced upon any of these claims?] If, in years, I was not your junior, and if, in wisdom, I was not vastly your inferior, I could tell you how that, although these things, no more than the "interest" charged to me, have really any thing to do with the *merits* of these claims, yet how they could (if they have not) have been made to have had a most powerful relation to them. So powerful, that all wonder would be done away, why a bill ever could have originated in Congress, granting to Gen. M'Arthur (himself then a member of Congress—a perfectly *disinterested* one, and a gentleman possessed of a "character" that no where had ever been "questioned," and, withal, of so much "wealth," as to be placed "above the love of office for emolument"—*Emolument*, meaning "wealth," and \$62,525 25 being neither the type nor the shadow of "wealth," but the very substance,) and others \$62,525 25, by way of "protecting" the purchasers of the public lands west of Ludlow's line, without these purchasers ever having asked for such "protection;" and how that such an impetus should have been given to the bill, that, like moving upon the wings of the wind, believing that pass it must, it was noticed in the National Intelligencer, as having passed; and Gen. M'Arthur's confidence induced him to write home that it had passed, and only lacked the signature of the President to become a law.

I purposely omit making any reference to the Hon. John C. Wright, Thompson's codefendant in the agreed case; because this gentleman's second agreement with Doddridge, demonstrates that he is *too disinterested*, from behind the curtain, to have moved the wires, or to have performed, in reference to this "protection" matter, any other office than that of the praiseworthy one of blowing the dust out of the eyes of the members of Congress, that had been thrown into them by the "*three interested individuals*," and by those who sat in the shadow of darkness. And when, gentlemen, it is considered how the atmosphere was and is beclouded with *dust*, the necessity that some one should and shall perform this office is apparent; and whether this gentleman's ability equals his zeal, is left to time to determine. In the olden time the prayer of an immortal Greek was—

“————— Lord of earth and air !
 O King! O Father! hear my humble prayer:
 Dispel *this cloud*, the light of heaven restore;
 Give me to see, and Ajax asks no more:
 If Greece must perish, we thy will obey,
 But let us perish in the face of day!
 With tears the hero spoke, and, at his prayer,
 The god, relenting, clear'd the clouded air.”

And whether the ejaculations of our political Ajax are to produce any “relenting” in Congress, is also left to time to determine.

In reference to the Hon. Joseph Vance, I have to observe, that as he lives *in the valley of the Big Miami River*, “between the Miami rivers,” and within a very few miles of the claims located by Gen. M^cArthur in the same valley, and “between” the same rivers, the conspicuous part that he has been acting in Congress, in reference to this “protection” matter, is accounted for by knowing that it is a case immediately affecting *the interests of his constituents*, and, through them, *the interests of the United States*, and, at the same time, the *adverse interest* of his “guardian.” And hence, that his *peculiarly delicate* situation forces him to be conspicuous in the matter. From the frequent mention that has been made of this gentleman’s name, coupled with this business, there are a few things about which I should myself feel pleased to have my mind put at rest—and the information would be useful to you. They are, whether he knows who it was that gave to the President of the United States the names of the three (not the *interested* “three”) individuals, whom the President appointed to value these claims, and whether Col. Ward, a son of Col. Ward, deceased, and a near neighbour of this gentleman, was not one of the three: and whether one of the other two was not connected with the Ward family by marriage? Whether Col. Ward, deceased, did not purchase from the United States, under the act of Congress granting pre-emptions to persons who had made contracts with John Cleves Symmes, *the most valuable part of the 6,220 acres’ claim*, surveyed by M^cArthur, in the names of John and Matthew Hobson, and did not afterwards sell and convey the same, warranting the title, and *thereby rendering his estate liable for a loss of title*? Whether Gen. M^cArthur did not attend the appraisers and surveyor upon this claim, and repeatedly mention, in their presence and hearing, that he would never take for that survey less than \$8 per acre? Whether this claim was not appraised to \$6 per acre? Whether a part of it was not then unsold by the United States, and in market at \$1 25 per acre? Whether, the year after this appraisement, Col. Ward did not fill an office of appraiser of lands for taxation, under a law of Ohio, directing them to be appraised precisely as, the year before, the 6,220 acres’ claim had been appraised; and whether *then* he appraised the same claim at an average value of as much as \$3 50 per acre; and, if nay, whether any cause existed, within the space of one short year, to sink the land near 50 per cent. in value? Whether he knows who it was that discountenanced an application by the owners of the land covered by the 6,220 acres’ claim, to Congress, to pay them, instead of M^cArthur, the \$6 per acre for their respective tracts, with the *improvements* thereon: they wishing to receive such a sum of money

therefor, and being willing to reconvey the land to the United States upon the receipt thereof? Whether he knows who it was that, last Winter, when the "protection" bill was pending before Congress, sent, or advised, or procured to be sent, "from a distance," (to use the language of the gentleman, whose letter I now have before me on that subject,) a petition to Congress, to be signed by the owners of the land claimed by M^r. Arthur and others, praying to have their titles quieted by a passage of the bill; and whether all of those who did sign said petition, had really any interest in the matter, or resided upon these claims prayed to be quieted? Whether he knows who it was that told Col. Aaron L. Hunt, the surveyor of Champaign county, last Spring, shortly after the adjournment of Congress, that no appropriation had been made for defraying the fees in the suit of M^r. Arthur vs. Reynolds; that he thought none would be soon made; and that he (Hunt) would have to look to those who employed him? [I employed Col. Hunt under authority of a letter from the Commissioner of the General Land Office; and as, in the first instance, I was liable to Hunt for his fees, he, after this information, called upon me therefor, and I paid them.] But, more especially, that, inasmuch as John Reynolds is his near neighbour and brother-in-law, whether he knows what "gentleman" it was that stated to Mr. Reynolds, that "he heard a man say, who knew all about it, (referring to the suit between Gen. M^r. Arthur and Reynolds) that, unless he had sufficient indemnity in the above suit, he would certainly have the costs to pay, if the suit finally went against him? The reason assigned for believing so, being that Congress, probably, would not make any appropriation for that purpose, not that he thought it would be unjust to do so, but on account of the opposition to the Administration in the Senate." [Was a bill ever introduced into Congress proposing to appropriate money to the payment of these fees? If yea, what was its title?] Personally, I do not know whether this gentleman knows any thing about this active "gentleman," or about the things and circumstances referred to; and it is to be hoped that he is profoundly ignorant in the matter: for there is no valid reason known to me, why he should merge his "character" in these "claims between the Miami rivers."

Mr. Bacon, in defence of his client, or for the purpose of demonstrating the *peculiar merits* (not, certainly, for the purpose either of throwing *dust* into the eyes of the "public," or to "prejudice the public mind,") of these "claims between the Miami rivers," charges that "every means" has been made use of to "prejudice the public mind against them." And, standing as he does upon the "official" side of the subject, and, as a matter of course, being altogether *disinterested*, he ought to be believed. But what says that "official testimony" of General M^r. Arthur's, taken expressly to clear the eyes of *dust*, and to neutralize the "prejudice of the public mind?" In an interrogatory put to Seth Smith, about a matter of fact, in reference to the forks of the Little Miami, the General asks, "Did you ever hear it called otherwise than the main fork, before the controversy between Dun,

Wallace, Galloway, and myself?" And Alexander Forbes, an "official" witness, in answer to an interrogatory put by the General, introduces therein such language as, "and never heard it doubted, until the late controversy between Duncan M'Arthur, Walter Dun, James Galloway, and Cadwallader Wallace." And when it is known that such evidence as *this* was taken to be used, *and was used*, at the trial of the ejectments against, or "controversy" with, *Reynolds* and *Vannetter*; and that one of the General's counsel, (Mr. Mason, another gentleman, "almost a native of the same forest," &c. and who also wrote, as I have been informed, a letter to Gen. M'Arthur, which was published, to blow away the *dust* and dissipate "prejudice,") then made such a use of it as that adverted to in the beginning, and at the conclusion of my letter of the 1st of June, to Messrs. Scott and Alexander; you will not wonder that *I*, who, then acting as the Agent of the Treasury Department, was defending these suits for the *United States*, should have been put into the shoes of him that was attempting to "remove his neighbor's land mark;" and that, as the Almighty hath a *curse* in reservation for *all* such, that, upon this gentleman's referring to it, in allusion to *me*, that the jury, with one voice, should as good as have cried out, "so may it be." It would have been well (as imparting useful information) for those who deal so extensively in accusations, to have been a little more particular, and have specified the "means" (as by speaking of "means," they, if any one, must know what "means,") that have brought about this most singular "prejudice" of "the public mind." For if *strange* "means" have not been "used," it is nevertheless the fact, that a *strange* "prejudice" has seized upon "the public mind" in the regions round about these "claims between the Miami rivers."

Gen. M'Arthur concludes his letter of the 29th December, 1824, to the Committee on Public Lands, thus: "Whether the memorial of my brother locators is based upon their liability for entries withdrawn from between the lines of Ludlow and Roberts, together with a little envy or jealousy, or a patriotic zeal to guard the public treasury, I shall not attempt to determine, but leave the subject with the committee;" thereby giving a most "official," and certainly a very *disinterested* conclusion to it. And, in his letter to the same committee of the 22d February, 1825, he concludes a paragraph thus: "This will, I trust, sufficiently explain the principal cause why Congress has been pressed by the *patriotic* memorials of the land-jobbing fraternity at Chillicothe." These extracts shew that, in the "*patriotic* zeal to guard the public Treasury," by "the *patriotic* memorials of the land-jobbing fraternity at Chillicothe," the General saw something rotten, and that the letters, from whence these extracts are made, were written to point it out to the committee, and, through them, to Congress. In the General's printed letter to Major James Kilgore, of the 1st October, 1824, (a few days before the Congressional election in this State,) written "to give a brief, but faithful account of the proceedings of the Court Martial, and the execution of the five soldiers, at the cantonment, above Chillicothe, in 1814," [the crime for which

these five "sons of the West," four on one day, and one on the day succeeding, "so freely bled," was *desertion*,] there is also evinced, by our "brother locator," somewhat of "a patriotic zeal to guard the public Treasury." The General observes, "It will be recollected that, about that time, desertions were so frequent, that *the Treasury of the United States was robbed*, and the ranks of the army almost broken thereby." And, to apply the axe to this robbery, and at the same time to *fill the ranks*, in lieu of a "*patriotic memorial*," the General testified his "patriotic zeal to guard the public Treasury," by a "memorial" written in the blood of his fellow creatures. And the General says to the Major, "The truth is, that the facts in the case, and my conduct upon that occasion, have been grossly, and I believe basely, misrepresented; and, in that way, many good and honest men have been deceived and imposed upon, and have become opposed to me, who would otherwise have been my friends."

"I do not, my dear sir, write you this letter, with a view to gain the favor of any man; but, so far as practicable, to counteract falsehood. All I want is justice, and that my fellow-citizens may fairly understand the facts in question."

By the execution of these five men, if the United States' Treasury did not save much money, yet a clear saving to the Government of 800 acres of land, was effected by it. And, as *I have been zealous* to save to [I will not use the term "robbery," it is a significant expression,] the same Treasury \$62,535 25 cents; a sum that, "*in these hard times*," is about equal to 400,160 acres of bounty lands, averaging the patent of 160 acres, at \$25 00 (the price, very near, that was required by the General for *procuring* them for "the sons of the West, who so freely bled,") each, and I am induced to believe, it is about a full estimate; for these zealous efforts of mine, and in behalf of the public Treasury and the public morals, I, in the language of the General, can truly say, "All I want is *justice*, and that my fellow-citizens may fairly understand the facts in question." For, to this end, and no other, hath my "zeal" been directed. Believing, at the same time, however, that, as in the General's case, so it has happened in mine, that my motives and acts "have been grossly and basely misrepresented." And as the General was influenced, so am I—"I do not write you this letter, with a view to gain the favor of any man; but, so far as practicable, to counteract falsehood."

There is a somewhat striking similitude in the professions of the law and of physic, in the relationship in which the lawyer stands to his client, and the physician to his patient; both from the nature of their professions being bound, oftentimes, to shield, not only the physical imperfections and diseases, but the moral depravity of their fellow men, as they may chance to be the clients of the one, or the patients of the other. Having thus premised, justice in reference to the distinguished individual who appeared for Gen. M'Arthur before the Supreme Court, on the trial of the suit of Doddridge vs. Thompson and Wright, and in reference also to the Hon. William Creighton, Jr., demands that I should say, that, as I do not believe either of these

gentlemen would dishonor their profession, so neither do I believe that either of them would dishonor themselves by any act of collusion with their clients. But he, be he who he may, (all pecuniary considerations apart,) that sits in judgment upon the fortune or the life of a personal and political friend, imposes a heavy tax upon his moral courage, and upon his fidelity to the laws and usages of his country. He *may* act obediently : but he cannot *feel* disinterestedly ; and *feeling* is, too often, the alloy of virtue. In the "chivalrous" age (the age when a people are delivered of their own vices, or from the oppression and vices of others,) of Rome, a BRUTUS, stifling the feelings of nature, could thrice call upon his own sons, "You, Titus, and you, Tiberius, why do you not make your defence against the charge?" and, on receiving no answer, could turn to the lictors and say, "Your's is the part that remains;" and after this, yet remain in his seat, regarding these sons with a threatening aspect, till their heads were severed from their bodies. And, in the "chivalrous" age of our own country, a Washington, stifling the feelings of vain glory, (but, upon this most extraordinary man, such feelings seem never to have found access to operate,) could refuse to will, or seem to wish to will to himself, the imperial diadem. But, as the natural world is not, 'twould be excess of vanity to suppose that the moral one is filled with resplendent luminaries. If it was, there would then be so much light that all need of "unofficial surveys and irresponsible depositions," and of "counteracting officials," would be done away.

Having, no doubt, already exhausted your patience, I could wish that the necessity of imposing a further tax upon it, did not exist. But the most unpleasant part of the story remains to be told ; and as I am the only person to tell it, and as justice to myself, individually, and the public interest, equally demand that I should speak, and that, so far as the public are concerned, the legal guardians of that interest should hear ; I shall make no apology for its imposition : It relates to my acts and character, as the Agent of the Treasury Department, in defending the suits brought by Gen. M'Arthur against the purchasers of a portion of the public lands, and to the acts and character of the Hon. George Graham, the Commissioner of the General Land Office, in reference to the same subject ; as touching either his moral integrity, or his capacity as a public officer, which, for reasons that to me appeared sufficient, I have questioned, and yet question.

The first reason is, that, in his letter to the President of the United States, of the 13th December, 1824, (published with the report of the Committee on Public Lands, at the second session of the 18th Congress,) upon the subject of the claims in question, he states that Robert's line "has been declared, by the decision of the Supreme Court, to be the true boundary of the lands, as originally reserved, between the Scioto and Miami, by the State of Virginia;" when an inspection of the decision of that Court will shew the statement to be false, and demonstrate the pernicious consequences of such a declaration, from such a source : for the declarations of the officer specially charged with the whole landed property of the Government, ought, in refer-

ence thereto, to be entitled to, and to receive, credence every where, and by every person ; as well by the Representatives of the People, as by the People themselves ; averring, that it is no extenuation for such a statement, to say, that, as the decisions of the Court are all published, its character was of the negative or harmless kind : for, coming from such a source as it did, it possessed a positive tendency to prevent an examination of the decisions of the Court, by all persons, excepting only that small number who, in some sense or other, were moved by "interested" motives to do it ; and, possessed of this positive tendency, it has stood, and yet stands, in opposition to the public interest.

The second reason is, that, disregarding his character as a public officer, and in equal disregard of the public interest, he, immediately upon receiving my report of the 9th January, 1826, had it copied and sent to Gen. M'Arthur ; either directly, by himself, or indirectly, through "a go-between," who, by name, is, perhaps, the Honorable Joseph Vance.

[Gen. M'Arthur, from "Fruit Hill," on the 16th day of February, 1826, in a letter of seven closely written pages of foolscap, calling upon me to defend my *honesty*, my *veracity*, and my *report*. (if there had been a *third* Roman Emperor, Attila, instead of his call upon the *two* to prepare palaces for his reception, would have included the *three* ; and this call upon me would then have been a parallel case, so far as a short line, drawn parallel to the side of a long one, is parallel thereto,) was the first to announce to me the receipt, at *Washington*, of my report of the 9th January. And I was not displeased to learn, from the peals of thunder in the "West," that my report had reached its destination in the East. And, from the same opposite direction, I should have been pleased, occasionally, to have even heard that my letters *had been received*. But justice demands of me to say, that, since my letter of the 14th June last, the Commissioner, appearing to have awoke from slumbering on his post, has acted with such promptness, that his answers have reached me almost before I thought mine to him had time to get to Washington.]

The third reason is, that, although repeatedly urged to furnish money to pay the legal fees accruing in the suits against Reynolds and Vanmeter, fees which were demandable before the Surveyor was bound to return his work into the Clerk's Office, he neither made any advances, nor gave any valid reason why he did not, or could not ; thereby either ignorantly, or wilfully, doing an act which, having a positive tendency to prevent a full defence, would consequently tend to the prejudice of the public interest. And, as I could only infer that the "contingent fund" was not to be touched in defence of *the public interest*, and that consequently a *special appropriation* was first necessary ; if this inference was just, then

The fourth reason is, that, knowing the United States had undertaken the defence of these suits, and that, to make a "full and fair" defence, expenses had to be incurred and fees advanced, and to meet which a special appropriation was necessary ; that, in disregard of his character as a public officer, and in equal disregard of the public

interest, he failed to take the necessary steps to procure such an appropriation.

[The Hon. Joseph Vance, to the inquiries of Col. Hunt, the Surveyor, about his fees, shortly after this gentleman's return from Washington, last Spring, very kindly replied, that "no appropriation had been made, and that he thought none would soon be made, and that the Colonel would have to look to those who employed him." And some "gentleman," after alarming the fears of John Reynolds, the defendant and brother-in-law of *this* honorable gentleman, about the accumulating fees, just about the same period, and while the copy of the Commissioner's letter to me, of the 20th April, was going the grand rounds at Urbana, told him that, "unless he had sufficient indemnity from *some individuals interested in the suit*, he would certainly have the costs to pay, if the suit finally went against him. The reason assigned for believing so was, that Congress probably would not make any appropriations for that purpose; not that he thought it would be unjust in them to do so, but on account of the opposition to the Administration in the Senate." "But," says Mr. Reynolds, for it is himself that speaks, "the circumstance which most excited my apprehension of danger in the above case was, on hearing of some conversation which had taken place between yourself [myself] and Gen. M'Arthur; but as I do not recollect my author, and have but an imperfect recollection of all the statements made, I will decline saying any thing about that matter." [What did I ever say to General M'Arthur, that could have produced alarm to Mr. Reynolds?] I do not mention these things as indicatiag the "gentleman" alluded to by Mr. Reynolds, nor even as indicating the "means" inscribed upon an apparently blank finger-board, wherewith to "prejudice the public mind," but to express my astonishment, that, on the 27th June, and again on the 21st July, the Commissioner, in apparent opposition to the Hon. Joseph Vance, and most unexpectedly to me, most urgently requested me to send on the accounts to be adjusted at the Treasury. But, when I send on accounts, it shall not be to screen either my own acts, or the acts of others, from the public view. For, in this business, I have never intended that my actions, nor those of my co-actors, should be sunk in the "sinking fund" of action; consequently, the accounts remain to be sent to be "adjusted at the Treasury," and a part of them (for my *services* and *individual expenses*) rests upon a contingency that will be stated.]

The fifth reason is, that, although Gen. M'Arthur made such topographical surveys as he thought necessary and proper, in the prosecution of his suits, *the fees for which the United States were bound to pay, if a decree was rendered against the defendants*; yet, upon his objecting to my making such surveys as I thought necessary and proper, on behalf of the United States, he (the Commissioner) at Gen. M'Arthur's instance, or upon General M'Arthur's information, and without any call upon me for information, seconded these objections.

The sixth reason is, that, in his letter to me of the 20th April, 1827,

he, in opposition to the laws of the United States, and without the sanction of a decision of the Supreme Court, stated, for my government, (in apparent compliance with an indirect request of Gen. M'Arthur's) that "the United States have not, and do not contend, for any other than a straight line from the source of the Little Miami to that of the Scioto, as the boundary line of the Virginia Military reservation:" so stating to me, in consequence of information communicated to him by Gen. M'Arthur.

The seventh reason is, that, in disregard of his character as a public officer, and in equal disregard of the public interest, he furnished Gen. M'Arthur with a copy of his said letter to me, of the 20th April, 1827; who, (the said Gen. M'Arthur) or some person for him, had a copy of it circulated at Urbana, previous to the trial, in that town, of his suit against Reynolds, before the Supreme Court of Ohio.

[If it is true, as stated by Gen. M'Arthur's counsel on the trial before the Court of Common Pleas, that for the lands between Roberts' and Ludlow's lines, sold out by the United States, patents were withheld by the Commissioner, whence did he derive his authority so to withhold? And if he did refuse, and does refuse to grant patents, who was it that thereby was using, and is using "means," of the most powerful kind, to "prejudice the public mind?" and against whose interest did, and do, these "means" operate? Mr. Bacon charges that "every means have been used to prejudice the public mind *against* the claims of Gen. M'Arthur;" and the charge is singular enough: for, as no one, before the General, ever questioned the titles of the land sold out by the United States, unless *strange* "means" had been used to *mislead* "the public mind," it would have been a most unnatural and unaccountable state of things for that "mind" not to have flowed in an uninterrupted and overwhelming stream of "prejudice," not only against the claimant, but also against his "claims." But is this the state of the public mind? If it was, it would not then be *unnaturally*, but naturally "prejudiced." It must be Mr. Bacon's intention, however, to convey the idea that the "means" used to operate upon the "public mind" were of that kind to give to it an *unnatural* "prejudice;" and so far he is right, and is only mistaken in his designation of the guilty authors. The charge that the attempt has been made, to involve, in General M'Arthur's "claims," his "character as an individual," is equally singular. It is a twin brother of the first charge.]

And the eighth reason is, that, in disregard of his character as a public officer, he, in opposition to his letter to the President, in opposition to the decision of the Supreme Court, and in opposition to the statements of the Hon. Mr. Vinton, before Congress, in his letter to me, of the 23d June, 1827, states, that it appears to him, "that the decision of the Supreme Court has left but one open point in this controversy, and that is, whether the points on the Little Miami and Scioto, at the termination of Roberts's line, were the true sources of those rivers. This point was the only one assumed by the Court as having been agreed. Upon all other points, involved in the decision.

of what were the boundaries of the Virginia Military Reserve, the opinion of the Court is so clear and distinct, as to form the rule for the guidance of the Executive Government.

“The assumption of the limits of the basins or valleys of the rivers, as forming the boundary of the country lying between the rivers, is not only in contravention to the opinion of the Court above stated, but is so repugnant to the general principles acted upon by the courts in this country, in establishing boundaries, and to the construction which has heretofore been given to the compact by Virginia, through her agents, and more particularly by the United States, that I should not think the Executive justifiable in incurring extra expenses, and in delaying the decision on those suits, for the purpose of making surveys to establish such a boundary.”

For, in his letter to the President, he unequivocally states, that Roberts’s line “has been *established* to be the true boundary, &c.” And *this line*, and not the “sources” of the rivers, did the Court “assume,” as having been agreed; and the Hon. Mr. Vinton has asserted that the District Attorney was instructed to insist upon this line, “and to agree that it was the *true line*.” And the Supreme Court, so far from *not* having assumed “the limits of the basins or valleys of the rivers, as forming the boundary of the country lying between rivers,” have positively assumed (“the territory lying between two rivers is the whole country, from their sources to their mouths,”) those limitations. And, so far from this assumption being “repugnant to the general principles acted upon by the Courts, in establishing boundaries,” it is in strict accordance therewith, and in exact conformity with that rule which, working injury to none, insures unerring justice to all: the rule, and that rule only, by which “the Courts in this country” have been invariably governed.

[Whether a copy of this letter was furnished to Gen. M’Arthur by the Commissioner, I have never learned. If it was not, the probability is, that, in lieu of it, he made some other communication to him: for, just in time for the General to have heard from Washington, he, on the 3d day of July, gave me notice to produce the letter of the 20th of April. And when, on that day, I wrote to the Commissioner, I did it under the impression that, but for some communication from him to the General, the copy that had been furnished him would have been used; and that the call upon me was intended to cover the Commissioner’s eagerness to serve the General: supposing it probable that, after the receipt of my letter of the 14th June, he may have recollected my admonition of the 9th January, 1826, and have judged it more becoming an officer of the Government to act a little more covertly.]

In my letter of the 26th March, 1827, to the Commissioner, I state, “I wish arrangements made to pay the Surveyor and the incidental expenses. For my services and my individual expenses, I want nothing, until a full and fair trial upon Gen. M’Arthur’s claims can be had, and their merits are decided upon by the judicial tribunals of the land. My efforts are directed to relieve the Treasury from

an attempt at imposition, not to impose upon it myself; and, if I fail, I will not receive one cent, for either my service or expenses. I have with clean hands accepted, and with foul ones I shall not leave the agency given me." From which, without reference to any other part of the correspondence, (which breathes but one sentiment and one opinion) on my part, you will at once learn the motives by which I have been governed, and the conditions upon which I acted, as the agent of the Treasury Department; and by *my acts* (a pretty full history of which will be found in my *entire* correspondence with the Secretary of the Treasury, and with the Commissioner,) in that capacity am I not only willing to be judged, but do I wish to be judged. My correspondence is, as near as can be, the image of all my acts; and that image, be it perfect or imperfect, I will neither disown nor flee from.

If *my acts* have been questionable, then, by possibility, the Commissioner's may not be so. But, if mine have not been, then, after my letter to him of the 14th June, 1827, (before I knew that Gen. M'Arthur had been furnished with a copy of the letter to me of the 20th April,) complaining of the then state of things, and in the full determination of not leaving my agency with "foul hands," telling him that, rather than obey his instructions, I wished to yield it up; I hope that, when, on the 3d day of July, Gen. M'Arthur gave me a written notice to produce, as *evidence* in his behalf, on the trial against Reynolds, the letter to me of the 20th April, giving in his notice a literal copy of it, (as he well might do, from the copy of it furnished by the Commissioner,) that no honorable-minded man will censure my letter, which, under such an unlooked-for state of things, (that of the plaintiff's calling upon the defendant's agent to produce his employer's letters; his knowledge of their contents, and of their usefulness to him, being derived from that employer,) I that day addressed to the Commissioner, and in accordance with which I became superseded in my agency. A copy follows:

"CHILLICOTHE, July 13, 1827.

"SIR: I regret that, when writing you on the 14th ult. and again on the 1st inst. I did not know that, true to your purpose of communicating every thing to *your* agent, General McArthur, and worse than nothing to me, you had awarded every thing to his fears of 'delay and unnecessary ('extra') expenses.' I had not then seen any *fire*; but the visible *smoke* too plainly told me that the watch-word had been betrayed to the enemy. And to-day I find the worst of my anticipations are in rapid progress of realization, as the enclosed copy of a notice from the General will bear witness. This notice, sir, is a happy expedient to shield your willingness to serve General McArthur, rather than honorably to defend the post entrusted to you by the laws of the land.

"I, sir, did not communicate to Gen. McArthur, through *his ward*, (the Hon. Joseph Vance,) copies of my correspondence with you. You know who did: and, in knowing, *ean*, without doubt, give a satisfac-

tory 'construction' of the motive by which you were influenced in doing it. And as now the whole of Gen. McArthur's hopes rest upon the testimony you have volunteered into his service, the unpleasant office has been devolved upon me, to see that not only it, but that the laws of the land, which it tends directly to oppose, shall both, in due season, be fully 'construed.'

"In opposition to your testimony, I will neither *agree* nor *construe* away—nor, as far as I can prevent it, suffer to be *agreed* or *construed* away—in contravention of the positive laws of the land, the rights of the United States. And as it evidently seems to be 'repugnant' to your wishes that it should not be done; and as I abhor to be governed by, or to conform to, the instructions of a man who can be guilty of abandoning to the enemy a post, with the defence of which he has been entrusted; I again, sir, through you, submit to the Secretary of the Treasury, the propriety of substituting for me, an agent less 'interested' in endeavoring to guard the interests of the United States against not only foreign, but *domestic* enemies; for one who, in opposing the legal enemy, will not, upon finding you in his ranks, feel (as I do) bound to regard and to treat you as the more dangerous of the two.

"Until I am suspended, I will, to the extent of my ability, defend the interests of the United States against the combined assault of Gen. McArthur and of yourself.

"Respectfully, sir, your obedient servant,

"CADWALLADER WALLACE.

"The Hon. GEORGE GRAHAM,

"Com. Gen. Land Office, Washington."

Having accepted the agency only because I was "directly at issue with Gen. McArthur before Congress, on the subject of his claims west of Ludlow's line," declaring at the time of acceptance, in these words, that "the Courts are the proper tribunals to determine this matter, and their decree, after a full and fair trial, (and to obtain which, nothing but the countenance of the Government, at this time, is wanted,) must and will satisfy all parties;" although cramped at the very threshold, and, during the whole time, laboring under every possible disadvantage, yet, so long as there remained a distant hope of having a "full and fair trial," I determined, even without receiving, through the Commissioner of the General Land Office, "the countenance of the Government," (which he sedulously withheld) not to lose sight of, or to abandon, the object of which I was in pursuit. But, when to the exertions of such gentlemen as the Hon. John C. Wright, and the emanations of the sleepless friendship of the Hon. Joseph Vance, for his "guardian," (this "guardian" being a *veteran* at the law, having fought and won just about as many legal battles for land, as, after his flight from Mecca, did the Prophet, battles in the field, to procure human blood, with which to water the seeds of the Koran.) became superadded an active co-operation against the interests of the Government, on the part of him under whom I held a

subordinate agency, then becoming convinced that, for a "full and fair trial," no hope remained, I, thereby, losing the only object sought, became without an object to continue in that agency; and, consequently, for once, and for once only, by being superseded, obtained so much of the "countenance" of my employers, as to accord the thing desired. And as none may question my zeal, for the proper direction thereof, under the belief that a question cannot arise about it, I am without concern.

Much stress has been laid upon the correctness of Robert's line, and the report of the United States' Commissioners thereupon. And the inaccuracy of Ludlow's has been charged upon the Indians—to their hostility. But under what circumstances was Roberts's line run? Did the Indians consent to its running? Did we then own the land at the head of the Scioto? Were we at peace or at war with them? How much time did these Commissioners spend upon the waters of the Scioto? What research did they make? Who were their pilots? If the testimony of James M. Reed, of Logan county, and that of John Judy, of Clark county, is entitled to credibility, then, not only these Commissioners, but the Virginia Commissioners also, were circumvented; and, being circumvented, *they*, like Ludlow, might as well have been prevented from executing their mission by the hostility of the Indians. Their report and Roberts's line will then both be ascertained to be founded in error; nor will either be entitled to be used as *testimony* (as they have been) in courts of justice, or elsewhere. That Roberts's line (the question of circumvention and prevention aside) is not a "true line," in any sense of the word, other than that of its being a straight one, none may pretend to deny. And if the head source, or point furthest up the valley of a river, shall be regarded as its head, the heads then of the Little Miami and Scioto rivers, will be found at or very near the spots pointed out at page 4 of my first letter to Scott and Alexander, and no where else; the exhibitions on any existing "official plats," or "*mere imaginary plats*," (like images, intended, *by feasting the eyes, to mislead the judgment*,) to the contrary notwithstanding. And these spots exist, and will exist, to attest the truth or falsehood of "official plats," of "*mere imaginary plats*," and of my declarations.

If in the subject of this letter I may claim exoneration from an apology in addressing you, perhaps it may not appear altogether so clear, that I am justified in the *length* that has been given to it. But for this, also, I shelter myself under the subject; the local and anomalous character of which, added to its various bearings and ramifications, having required that I should proceed at least as far as I have advanced; nor did justice thereto seem to permit my stopping short of the point at which I have arrived. And, in conclusion, I will now only add, that, when the deed of cession from Virginia to the United States of the territory northwest of the river Ohio, has passed to the latter *the right of soil and of jurisdiction*; when in deciding against my appointment, by the State of Virginia, to the office of Principal Surveyor of the lands "between the Scioto and Little Miami rivers," the Supreme Court decided, that *the right of jurisdiction* had,

by the deed of cession, passed away from Virginia; and when, in making the decision in behalf of Doddridge, the court *have not denied* the powers of the Government; but when, in the case of Anderson vs. Huffnagle, (without citing other cases,) the Court *have affirmed* the powers of Government; when Ludlow's line (below and west of which lie the claims demanding your "protection") is a line running across the *western* side of the valley of the Little Miami and across the *eastern* side of the valley of the Big Miami, without detaching one square inch of land from the *eastern* side of the Little Miami, or one from the *western* side of the Scioto; when the act of Congress of the 23d March, 1804, declares that Ludlow's line binds, upon the east, *the surveys of the United States*, and when, after thereby thus solemnly declaring, that the lands below and *west* of Ludlow's line had been *surveyed by the United States*, Congress, by the act of the 26th of March, 1804, (only three days thereafter) have positively authorized and directed the sales of the lands thus surveyed; when by the act of Congress of the 3d of March, 1801, entitled "An act giving a right of pre-emption to certain persons who have contracted with John Cleves Symmes, or his associates, for land lying *between the Miami rivers*, in the territory of the United States northwest of the Ohio," (not to name the acts making the sale and grant to Symmes, and the various acts extending the right of pre-emption) the Congress of the United States have declared that there is a *country* "between the Miami rivers;" when the monuments of nature exist to demonstrate that there is such a country as that (in the language of the laws of the United States, and in the language of Gen. McArthur,) "between the Miami rivers;" when it is an incontrovertible fact, and an admitted principle of matter, that two bodies cannot be in the same place at the same time; and that every defined portion of matter does of necessity lie within the circle of its own boundary; and by that boundary, all other matter is shut out and excluded; and as a consequence, the "country between the Miami rivers," and the country "between the Scioto and Little Miami rivers," two separate and distinct portions of matter, are as much separated and distinct, the one from the other, as any two globes or bodies of the same nature and properties, by being brought in contact or pressed together can be; and, consequently, that no part or portion of the *country* "between the Miami rivers" does lie, or can lie, within the *country* "between the Scioto and Little Miami rivers;" nor any part of the *country* of the *latter*, does lie, or can lie, within the country of the *former*: when, moreover, the Supreme Court of the United States, without any kind of exception or reservation, have solemnly affirmed that the territory lying between two rivers is comprehended within and limited by the circle of "their sources" and "their mouths," ("the territory lying between two rivers is the whole country from their sources to their mouths:")—and when these are the precise and unerring boundaries prescribed by the God of nature himself, until the Court shall abandon truth and justice, or God shall invert the order of creation, these "claims" *in the valley of the Big Miami river*, "between the Miami

rivers," can never, constructively nor naturally, be placed "between the Scioto and Little Miami rivers." And until one or the other of these things shall be done, I cannot doubt either the propriety or the necessity of my course in reference thereto : for my faith in the truth of the position taken by me in reference to their *merits*—to their *perfect destitution of merit*—is clear and unclouded. And for me, obscure as I am, notwithstanding the overflowing "wealth" of some, and the unsullied and unquestionable "characters" of all the individuals demanding your "protection," not to be obedient to its dictates, I should then be that silent contemptible wretch who, from just demerit and conscious unworthiness, would, in the dark shadow of that odium in which it has been attempted to involve me, be content to hide himself.

I am, gentlemen, very respectfully, your obedient servant,

CADWALLADER WALLACE.

